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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Buddy Fong

9116

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EXAMINER

VERAA, CHRISTOPHER

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. The preliminary amendment received on June 24, 2004 differed from the original application in that only claims 1-4 appear on the newest version. Though not explicitly stated on the amendment, it is assumed that claim 5 was cancelled. Any new claims amended hereafter should be numbered beginning at 6.

Specification

2. The following is a description of what the specification of an application is required to contain.

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

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Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly

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complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

3. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

4. The abstract of the disclosure is objected to because it contains more than one paragraph. Correction is required. See MPEP § 608.01(b).
5. The specification is objected to because it contains typographical or grammatical errors. Line 1 of the Background – Field of Invention section contains three errors. It appears that the sentence should read, "This invention relates to stake markers *used* to locate points on *the* ground, permanently or *temporarily*." Correction is required.
6. On line 4 of the Background – Description of Prior Art section, the singular verb "is" does not agree with the plural subject "items". Consider revising the sentence as a whole. Correction is required.
7. On line 1 of the Object and Advantages section, there is a reference to "the above patent." There is no patent cited in the specification and no list of references attached to the application. It is unclear what the author is referring to. Appropriate correction is required.

Claim Objections

8. Claim 3 is objected to because of the following informalities: "Said insert material" lacks a proper antecedent. Claim 3 is dependant on claim 1 which mentions a nail-able head insert, but claim 1 fails to specifically mention the insert material.

Therefore the insert material has not been said as claim 3 states, but is rather implied that the insert is made of some material. A proper claim might read "The stake marker of claim 1, wherein said insert comprises a wood material." Appropriate correction is required.

9. Claim 4 is objected to because the term "said wood insert" lacks a proper antecedent since the material of the insert is not specified in claim 1. It appears that claim 4 should be dependant on claim 3 instead of claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4 are rejected under 102(b) as being anticipated by Jones (US-2003/0056961). As to claim 1, Jones discloses a device with a tube body (450 and 560) and a nail-able insert (412 and 512) that can be inserted into the ground. (figures 25-28) As to claim 2, Jones teaches that the tube body (450) "can be made from a section of

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metal pipe or tubing such as steel, galvanized steel or stainless steel tubing.”

(paragraph 63, lines 3-5). As to claim 3, Jones discloses that the wood insert “can be made of a wide variety of materials, including but not limited to wood, plastic, fiberglass, ...” (paragraph 15, lines 1-3). As to claim 4, Jones discloses that the tube body, or sleeve, “is crimped at locations 562 (see fig. 28) along the length of the sleeve 560.” (paragraph 66, lines 8-10).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bonner (US-191919) discloses a hollow stake with an identification cap

Carroll, Jr. (US-6832575) discloses a stake that carries a bundle of colored filaments for increased visibility.

Zayeratabat (US-6523302) discloses a tubular garden stake with a crimped head.

Wolff (US-1753960) discloses a stake containing a label in the head thereof.

Brown (US-427394) discloses a stake with a metal tube body and a screw cap insert.

Lutz (US-3503163) discloses a hollow stake marker with an information container.

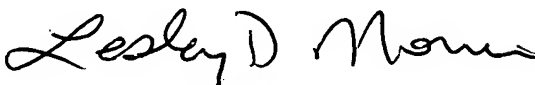
Chapman (US-551578) discloses a tubular garden stake with a wire attachment for displaying labels.

Merkel (US-4185425) discloses a stake marker with an attached cap that may be painted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E. Veraa whose telephone number is 571-272-2329. The examiner can normally be reached on Monday through Friday, 6:30 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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